

FREQUENTLY ASKED QUESTIONS
PROPOSED LEXINGTON NEIGHBORHOOD CONSERVATION DISTRICT ENABLING BYLAW

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What is Neighborhood Conservation District?

A Neighborhood Conservation District, or NCD, is a form of preservation designation, adopted by Town Meeting using Lexington's home rule authority. It is less restrictive in its effect on homeowners than a Local Historic District, such as the four historic districts along the Battle Road/Massachusetts Avenue and the Green.

How is an NCD established?

An NCD is established through an extensive process designed to ensure that all potentially affected neighbors have the opportunity to participate.

First, a group of at least 10 neighbors submits an application to the Lexington Historical Commission (LHC) for consideration as an NCD. The LHC then holds a public hearing to determine neighborhood support. If the LHC finds that designation might be appropriate, a study committee is appointed to prepare a report with its recommendations for the NCD, including suggested Regulations and Guidelines to be applicable to the NCD. The LHC and Planning Board then hold a second public hearing, giving neighbors the opportunity to opt out of the NCD. If at least 67% of the affected property owners support the NCD, then the LHC and PB vote to recommend the NCD to Town Meeting, which has the final approval. If more than 67% object, the LHC and PB can redraw the NCD boundaries or decline to proceed with the designation.

Can I opt out of the NCD?

Yes (but the NCD sponsors and your neighbors hope you will not!). In Lexington's proposed NCD bylaw, neighborhood property owners will be given the opportunity to opt out of a proposed designation. An NCD should reflect a strong consensus among owners about what and how to conserve the character of their neighborhood, and potentially maintain the value. If a two-thirds (67%) majority of owners do not wish to be included, NCD boundaries may be redrawn to exclude those properties, or the district may not be recommended to Town Meeting for a vote. Once the NCD is established, the NCD Commission and property owners can review the Regulations and Guidelines after three years, to determine whether they are working for the neighborhood. In addition, 67% of the owners can petition at any time to dissolve the NCD.

What does an NCD regulate?

In an NCD, the neighborhood itself determines what types of construction and alterations will need approval, and a neighborhood commission conducts the review. While a neighborhood may opt to manage changes to design features of a building visible from a public way, in a manner similar to a local historic district, it is anticipated that NCDs will be used in Lexington to give

neighborhoods a voice in the types of major changes that alter neighborhood character, such as demolition and new construction that is out of scale or inconsistent with existing house design.

An NCD cannot require review and approval of many exterior changes, including storm windows, doors and screens; color; small accessory buildings; elements of a structure not visible from a public way, or ordinary maintenance, repair, and in-kind replacement. But it does review total demolition and new construction, as well as substantial changes such as major additions or total roof/window/siding replacement.

How can we be sure that the NCD will not take a heavy-handed approach to changes in the neighborhood?

The best way to ensure that an NCD fits the needs and desires of the neighborhood is to be actively involved in the process of establishing its Regulations and Guidelines. Each NCD will have its own Regulations and Guidelines based on what matters to that neighborhood.

Your participation in the identification of the key elements that make up the distinctive character or cohesiveness of the neighborhood and the development of a set of Regulations and Guidelines that addresses the types of changes that are most destructive of that character, while actively seeking a consensus of viewpoints from among property owners, will ensure an effective and responsive NCD.

What if I disagree with the NCD Commission's decision?

A property owner who feels he has been unfairly treated, or that the NCD Commission has acted beyond its jurisdiction, can seek review at a joint Planning Board/LHC public hearing. As a last resort the property owner can appeal to the Superior Court for relief.

Are there any provisions for special hardship?

Yes -- If a property has a special situation that does not affect the neighborhood generally, and to permit exceptions would not undermine the intent and purposes of the NCD, the property owner can apply for a Certificate of Hardship from the NCD Commission.

What if my neighbor is letting his property deteriorate? Can the NCD do anything?

Yes -- the NCD Bylaw contains a provision for demolition by neglect, when an unoccupied building is a threatened due to a general lack of maintenance leading to decay, structural failure, infestation of pests or vulnerability to vandalism. In that case, the NCD Commission and the Building Commissioner can inspect the property and work with the owner to remedy the situation. If the owner refuses, the Building Commissioner can take additional steps to protect the property.

What's the difference between a neighborhood association, an NCD, and a historic district?

Lexington has several neighborhoods, mostly ones developed in the 1940s, 50s, and 60s as mid-century modern subdivisions, that include active **neighborhood associations** which manage how changes are made to the houses in the area, and may include some amenities for common use, such as swimming pools, playgrounds, or tennis courts. The neighborhood associations operate informally, such as at Peacock Farm or Six Moon Hill, to negotiate changes to the exteriors of the homes there, or may include restrictive covenants on the deeds to each house in the neighborhood that call for changes to be shared with and approved by a neighborhood committee. These are essentially privately managed entities that operate without public input or review.

NCDs would be somewhat similar to this, in that control would rest within the neighborhood, as with the associations, but each NCD would be adopted by Town Meeting as a bylaw of the Town of Lexington. Its commission would be an appointed town board and the NCD would operate as a municipal entity, subject to all public open meeting, conflict of interest and other regulations. NCDs are intended to foster the reuse and upgrading of existing buildings and to provide an alternative to the strict regulation of architectural details that is typical of a historic district. A further purpose is to allow adaptations that meet the needs of current and future owners, while conserving distinctive characteristics of scale, size, and massing.

Local Historic Districts (LCDs) are the most highly regulated in Lexington. The LCDs are established by statute, subject to a Selectmen-appointed Commission which sits regularly to review and approve or disallow proposed modifications to the buildings and structures within LCD boundaries. Whereas NCDs generally focus on conserving the character and minimizing the impact of changes on the **neighborhood as a whole**, LCDs are intended to maintain and preserve the historic architecture and materials of **individual structures**. The Lexington Historic Districts Commission has the authority to rule on any changes to the exterior of included buildings that can be seen from a public way, including design, materials, color, signage, etc.

Where did the idea of NCDs come from?

In Massachusetts, the first NCDs were adopted in four neighborhoods in Cambridge over 20 years ago. But recently as tear-downs, mansionization, and the wholesale replacement of houses in some neighborhoods have become more common, property owners concerned about getting a handle on the major forces affecting their neighborhoods have turned to this type of neighborhood-based conservation process, which some people call “historic district lite.”

A number of nearby communities have adopted their own NCD enabling bylaws, including Brookline? Cambridge? Lincoln, Wellesley, Concord, and Winchester. Wellesley's NCD bylaw provided the simplest and most streamlined model for this type of regulation and that is the example that has been followed in developing a draft NCD bylaw for Lexington.